

CONCURRENT RESOLUTION

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That in the enrollment of H.R. 1417, an Act
3 to amend title 17, United States Code, to replace copy-
4 right arbitration royalty panels with Copyright Royalty
5 Judges, and for other purposes (the Copyright Royalty
6 and Distribution Reform Act of 2004), the Clerk of the
7 House of Representatives shall make the following correc-
8 tions:

9 (1) In section 801 of title 17, United States
10 Code, as amended by section 3(a) of H.R. 1417—

11 (A) in subsection (b)(7)(A)—

12 (i) in clause (i), strike “the other par-
13 ticipants” and insert “participants”; and

14 (ii) in clause (ii), strike “any other
15 participant described in subparagraph (A)”
16 and insert “any participant described in
17 clause (i)”;

18 (B) in subsection (b)(7)(B), strike “118(b)
19 (2) or (3)” and insert “118(b)(2)”;

1 (C) in subsection (b)(8), insert a comma
 2 after “802(g)”; and

3 (D) in subsection (c), strike “As provided
 4 in section 801(f)(1), the” and insert “The”.

5 (2) In section 802 of title 17, United States
 6 Code, as amended by section 3(a) of H.R. 1417—

7 (A) in subsection (a)(1), in the second
 8 sentence—

9 (i) strike “two Copyright” and insert
 10 “2 Copyright”; and

11 (ii) strike “one shall” and insert “1
 12 shall”;

13 (B) in subsection (c)—

14 (i) strike “appointed the Chief Copy-
 15 right” and insert “appointed as the Chief
 16 Copyright”; and

17 (ii) strike “appointed Copyright” and
 18 insert “appointed as Copyright”; and

19 (C) in subsection (f)—

20 (i) in paragraph (1)(A)(ii), strike “14
 21 days of receipt by the Register of Copy-
 22 rights of all” and insert “14 days after the
 23 Register of Copyrights receives all”;

24 (ii) in paragraph (1)(B)(i)—

1 (I) strike “The Register shall”
 2 and insert “The Register of Copy-
 3 rights shall”;

4 (II) strike “30 days of receipt by
 5 the Register of Copyrights of all” and
 6 insert “30 days after the Register of
 7 Copyrights receives all”; and

8 (III) in the last sentence, insert
 9 “to the Copyright Royalty Judges”
 10 after “is timely delivered”;

11 (iii) in paragraph (1)(D)—

12 (I) insert after the second sen-
 13 tence the following: “The Register of
 14 Copyrights shall issue such written
 15 decision not later than 60 days after
 16 the date on which the final determina-
 17 tion by the Copyright Royalty Judges
 18 is issued.”;

19 (II) in the following sentence, in-
 20 sert a comma after “such written de-
 21 cision”;

22 (III) strike “section
 23 802(f)(1)(D)” and insert “this sub-
 24 paragraph”;

1 (IV) strike “notification and un-
 2 dertakes to consult with” and insert
 3 “notification to, and undertakes to
 4 consult with,”; and

5 (V) strike “fails within reason-
 6 able period after receipt of such notifi-
 7 cation” and insert “fails, within a rea-
 8 sonable period after receiving such no-
 9 tification,”.

10 (3) In section 803 of title 17, United States
 11 Code, as amended by section 3(a) of H.R. 1417—

12 (A) in subsection (a)(1), strike “Librarian
 13 of Congress, copyright arbitration royalty pan-
 14 els,” and insert “the Librarian of Congress,”;

15 (B) in subsection (b)—

16 (i) in paragraph (1), amend subpara-
 17 graph (A)(i) to read as follows:

18 “(A) CALL FOR PETITIONS TO PARTICI-
 19 PATE.—(i) The Copyright Royalty Judges shall
 20 cause to be published in the Federal Register
 21 notice of commencement of proceedings under
 22 this chapter, calling for the filing of petitions to
 23 participate in a proceeding under this chapter
 24 for the purpose of making the relevant deter-
 25 mination under section 111, 112, 114, 115,

1 116, 118, 119, 1004, or 1007, as the case may
2 be—

3 “(I) promptly upon a determination
4 made under section 804(a);

5 “(II) by no later than January 5 of a
6 year specified in paragraph (2) of section
7 804(b) for the commencement of pro-
8 ceedings;

9 “(III) by no later than January 5 of
10 a year specified in subparagraph (A) or
11 (B) of paragraph (3) of section 804(b) for
12 the commencement of proceedings, or as
13 otherwise provided in subparagraph (A) or
14 (C) of such paragraph for the commence-
15 ment of proceedings;

16 “(IV) as provided under section
17 804(b)(8); or

18 “(V) by no later than January 5 of a
19 year specified in any other provision of sec-
20 tion 804(b) for the filing of petitions for
21 the commencement of proceedings, if a pe-
22 tition has not been filed by that date.”;

23 (ii) in clause (ii) of paragraph
24 (1)(A)—

1 (I) strike “proceeding, under
 2 clause (i)” and insert “proceeding
 3 under clause (i)”; and

4 (II) strike “section 803(b)(3)”
 5 and insert “paragraph (3)”;
 6

7 (iii) in paragraph (4)(A), strike “a
 8 participant in the proceeding asserts a
 9 claim in the amount of” and insert “the
 10 contested amount of a claim is”;

11 (iv) in paragraph (6)(C)—

12 (I) in clause (iv), insert a comma
 13 after “orders”;

14 (II) in clause (v), strike “accord-
 15 ing to” and insert “in accordance
 16 with”; and

17 (III) in clause (vi)(I), strike “ab-
 18 sent the discovery sought” and insert
 19 “, absent the discovery sought,”;

20 (v) in clause (vii), strike “interrog-
 21 atories and” and insert “interrogatories,
 22 and”; and

23 (vi) in clause (ix)—

24 (I) in the first sentence, insert a
 comma after “give testimony” and in-

1 sert a comma after “inspection of doc-
2 uments or tangible things”; and

3 (II) in the last sentence, strike
4 “subparagraph” and insert “clause”;

5 (C) in subsection (c)—

6 (i) in paragraph (1), strike
7 “(b)(3)(C)(x)” and insert “(b)(6)(C)(x)”;

8 (ii) in paragraph (2)—

9 (I) in subparagraph (A)—

10 (aa) insert “in a pro-
11 ceeding” after “a participant”;
12 and

13 (bb) strike “a proceeding is
14 issued” and insert “the pro-
15 ceeding is issued”;

16 (II) in subparagraph (B), strike
17 “their initial determination concerning
18 rates and terms to the participants in
19 the proceeding” and insert “to the
20 participants in the proceeding their
21 initial determination concerning rates
22 and terms”; and

23 (III) in subparagraph (C), strike
24 “except as provided under subsection
25 (d)(1)” and insert “except that non-

1 participation may give rise to the limi-
 2 tations with respect to judicial review
 3 provided for in subsection (d)(1)”;
 4 and

5 (iii) in paragraph (6), strike “Fol-
 6 lowing review of the determination by the
 7 Register of Copyrights under section
 8 802(f)(1)(D)” and insert “By no later
 9 than the end of the 60-day period provided
 10 in section 802(f)(1)(D)”; and

11 (D) in the second sentence of subsection
 12 (d)(2)(A), strike “transmission service” and in-
 13 sert “licensee”.

14 (4) In section 5(b)(1)—

15 (A) in subparagraph (A), strike “and” at
 16 the end;

17 (B) strike subparagraph (B); and

18 (C) redesignate subparagraphs (C) and
 19 (D) as subparagraphs (B) and (C), respectively.

20 (5) In the amendment made by section
 21 5(b)(1)(A)—

22 (A) strike “5-year periods” and insert “5-
 23 year period”; and

24 (B) strike “such other periods” and insert
 25 “such other period”.

1 (6) Strike paragraph (3) of section 5(b) and in-
2 sert the following:

3 (3) in paragraph (5), by striking “determina-
4 tion by a copyright arbitration royalty panel or deci-
5 sion by the Librarian of Congress” and inserting
6 “decision by the Librarian of Congress or deter-
7 mination by the Copyright Royalty Judges”;

8 (7) In the amendment made by section
9 5(c)(1)(A)(i)—

10 (A) strike “5-year periods” and insert “the
11 5-year period”; and

12 (B) strike “different transitional periods
13 are provided in section 804(b), or such periods”
14 and insert “a different transitional period is
15 provided under section 6(b)(3) of the Copyright
16 Royalty and Distribution Reform Act of 2004,
17 or such other period”.

18 (8) In the amendment made by section
19 5(c)(1)(B)(i), strike “in section 804(b)” and insert
20 “under section 6(b)(3) of the Copyright Royalty and
21 Distribution Reform Act of 2004”.

22 (9) In the amendment made by section
23 5(c)(2)(A)—

24 (A) strike “5-year periods” and insert “the
25 5-year period”; and

1 (B) strike “different transitional periods
 2 are provided in section 804(b), or such periods”
 3 and insert “a different transitional period is
 4 provided under section 6(b)(3) of the Copyright
 5 Royalty and Distribution Reform Act of 2004,
 6 or such other period”.

7 (10) In the amendment made by section
 8 5(c)(2)(B)(i), strike “in section 804(b)” and insert
 9 “under section 6(b)(3) of the Copyright Royalty and
 10 Distribution Reform Act of 2004”.

11 (11) Strike paragraph (3) of section 5(c) and
 12 insert the following:

13 (3) in paragraph (3), by striking “determina-
 14 tion by a copyright arbitration royalty panel or deci-
 15 sion by the Librarian of Congress” and inserting
 16 “decision by the Librarian of Congress or deter-
 17 mination by the Copyright Royalty Judges”; and

18 (12) In section 5(c)(4)(B), insert “of subpara-
 19 graph (A) the following:” after “by adding after the
 20 first sentence”.

21 (13) In the amendment made by section
 22 5(d)(3)(A), strike “during periods” and insert “dur-
 23 ing the period”.

24 (14) In section 5(d)(4)—

1 (A) strike “and” at the end of subpara-
 2 graph (B);

3 (B) add “and” after the semicolon at the
 4 end of subparagraph (C); and

5 (C) add after subparagraph (C) the fol-
 6 lowing:

7 (D) in the last sentence, by striking “Li-
 8 brarian of Congress” and inserting “Copyright
 9 Royalty Judges”.

10 (15) In the amendment made by section
 11 5(d)(5)(A)(i), strike “, Copyright Royalty Judges, or
 12 a copyright arbitration royalty panel to the extent
 13 those determinations were accepted by the Librarian
 14 of Congress” and insert “or Copyright Royalty
 15 Judges”.

16 (16) In the amendment made by section
 17 5(f)(1)(B)—

18 (A) strike “, a copyright arbitration roy-
 19 alty panel,”; and

20 (B) strike “to the extent that they were ac-
 21 cepted by the Librarian of Congress,”.

22 (17) In section 5, insert the following after sub-
 23 section (g) and redesignate succeeding subsections
 24 accordingly:

1 (h) RATEMAKING FOR SATELLITE CARRIERS.—Sec-
 2 tion 119(c) of title 17, United States Code, is amended—

3 (1) in paragraph (2)—

4 (A) in subparagraph (B), by striking “Li-
 5 brarian of Congress” and inserting “Copyright
 6 Royalty Judges”; and

7 (B) in subparagraph (C), by striking “Reg-
 8 ister of Copyrights shall prescribe” and insert-
 9 ing “Copyright Royalty Judges shall prescribe
 10 as provided in section 803(b)(6); and

11 (2) in paragraph (3)—

12 (A) in subparagraph (A)—

13 (i) by striking “arbitration pro-
 14 ceedings” and inserting “proceedings”; and

15 (ii) by striking “arbitration pro-
 16 ceeding” and inserting “proceedings”;

17 (B) in subparagraph (B)—

18 (i) by striking “copyright arbitration
 19 royalty panel appointed under chapter 8”
 20 and inserting “Copyright Royalty Judges”;
 21 and

22 (ii) by striking “panel shall base its
 23 decision” and inserting “Copyright Royalty
 24 Judges shall base their determination”;
 25 and

1 (C) in subparagraph (C)—

2 (i) in the heading, by striking “DECI-
3 SION OF ARBITRATION PANEL OR ORDER
4 OF LIBRARIAN” and inserting “DETER-
5 MINATION UNDER CHAPTER 8”; and

6 (ii) by striking clauses (i) and (ii) and
7 inserting the following:

8 “(i) is made by the Copyright Royalty
9 Judges pursuant to this paragraph and be-
10 comes final, or

11 “(ii) is made by the court on appeal
12 under section 803(d)(3),”.

13 (18) In the first sentence of section 6(b)(1)—

14 (A) strike “date of enactment of this Act”
15 and insert “effective date provided in subsection
16 (a)”; and

17 (B) strike “such date of enactment” and
18 insert “such effective date”.

19 (19) Strike paragraph (2) of section 6(b) and
20 insert the following:

21 (2) CERTAIN ROYALTY RATE PROCEEDINGS.—

22 Notwithstanding paragraph (1), the amendments
23 made by this Act shall not affect proceedings to de-
24 termine royalty rates pursuant to section 119(c) of

- 1 title 17, United States Code, that are commenced
- 2 before January 31, 2006.

Passed the Senate November 16, 2004.

Attest:

Secretary.

108TH CONGRESS
2D SESSION

S. CON. RES. 145

CONCURRENT RESOLUTION

To correct the enrollment of H.R. 1417.